
Original Article

Neoliberalism, the homeland security state, and the authoritarian turn

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Abstract This article interrogates the writings of Milton Friedman and Samuel Huntington to theorize the cultural and ideological processes that gave rise to the homeland security state, a complex and integral configuration of the modern capitalist state that has come to police migrants in multiple realms. Though I discuss some of the major policies and institutional shifts that were central to the forging of the homeland security state from the 1980s to the early twenty-first century, I argue that such policies could not be separated from the authoritarian turn in civil society; that is a cultural and ideological tendency to support the use of violence and repression to deal with dissent and social problems writ large. I also argue that the authoritarian turn should be viewed as the civil society-based cultural and ideological counterpart of “authoritarian statism,” a concept developed by the Greek political theorist Nicos Poulantzas to characterize a repressive form of governance that can exist within the legal framework of a constitutional democracy. The article concludes with some notes about what the authoritarian turn and statism means for the migrant rights movement and parallel social movements in light of President Obama’s Deferred Action for Parental Accountability.

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Mexicans immigrating over the border is a good thing! It’s a good thing for the illegal immigrants, it’s a good thing for the United States, it’s a good thing for the citizens of the country. But it is only good so long as it’s illegal!



That is an interesting paradox to think about: make it legal and it's no good. Why? Because as long as it's illegal, the people who come in do not qualify for welfare, they don't qualify for Social Security. – Milton Friedman

State and society have been marked by two seemingly contradictory trends over the last thirty-five years: the retreat of the welfare state and the expansion of the state's repressive apparatus. The general trend since the 1980s has been for policymakers to cut services to the poor and working classes in the form of social programs, housing subsidies and education while they expand the state's repressive capabilities (with important exceptions). There has been an attack on public-sector jobs, cuts in social spending and a wave of privatizations in state services, from the subcontracting of city services to charter schools. Throughout the 1990s the US government pursued free trade policies through treaties such as the North American Free Trade Agreement as the United States Congress reformed our public welfare system. Such policies have continued well into the twenty-first century. For instance, the 113th Congress has slashed unemployment benefits and allocated less money for food stamps. Such policies are not limited to Congress; President Barack Obama is at the time of this writing pursuing two of the largest free trade agreements in history, the Trans-Pacific Partnership and the Transatlantic Trade and Investment Partnership.

In contrast to the dismantling of the welfare state and the promotion of free trade agreements, there has been a fortification of the state's repressive institutions in the realm of social control and migration control. As I have described in *Reform without Justice*, migration control over the last decade and half has been characterized by the emergence of the *homeland security state*, a concept that for the purposes of this article will refer to the US government apparatus for migration control and its cultural and ideological underpinnings in civil society (Gonzales 2014).

Under the homeland security state, there has been a dramatic increase in what the Department of Homeland Security calls "removals," that is, formal deportations that carry the consequence of migrants being charged with "illegal reentry" if they return unlawfully to the United States. The number of removals rose from 18,846, per year in fiscal year 2000 to 438,421 in fiscal 2013 (Department of Homeland Security 2013). Deportations declined in 2014 when the DHS removed 414,481 people (Department of Homeland Security 2014). Even though some expect deportation numbers to decline in the coming years, billions of dollars are still being invested in building up the detention and deportation infrastructure of the homeland security state.

In June 2014, President Obama unsuccessfully requested US\$3.7 billion in emergency funds to stop an influx of Central American asylum seekers (White House 2014). The president and many of the leading Democrats, including Hillary Clinton, have been advocates of detaining Central Americans, including women and children, in makeshift detention centers and putting them in rapid deportation proceedings – even though many of them should have been granted

international protection. The administration detained them based on the argument that the women and children posed a national security risk. As a result of such policies there has been a dramatic expansion of migrant detention. According to the Detention Watch Network Immigration, migrant detention grew by 1200 per cent from June to August 2014 alone (Detention Watch Network 2014). This has been especially so in Texas, the state that has seen the most growth in family detention centers, which are the new horizon of authoritarian state practices. In February 2015, the president requested \$41.2 billion for the Department of Homeland Security for fiscal year 2016 (Department of Homeland Security 2015). The budget request earmarked \$3.3 billion for DHS operations; \$691.9 million for care and transportation of unaccompanied children and families with children – something that takes place in privately owned detention centers; \$373.5 million for Customs and Border Enforcement; \$94.5 million for expanding detention beds for “high risk” individuals; and \$86.7 million for enhancing the Secret Service among other earmarks. Such a massive increase in funds will be used to expand the reach and effectiveness of the homeland security state.

Given these apparently contradictory developments, I seek to theorize the following: What is the relationship between the ascendancy of neoliberalism and the emergence of the homeland security state? How do we make sense of the buildup of the homeland security state with the dismantling of the welfare state? What are the prospects for the Latino migrant movement and its allies to carve out democratic spaces under these conditions?

To begin with, I argue that the apparent paradox – that is, of the slow and steady dismantling of the welfare state and the concomitant rise of the homeland security state – is intimately bound up with the rise of neoliberalism. Neoliberalism is the ideology of free market capitalism that reduces the role of the state to enforcing laws and justifies severe inequality and class polarization under the idea of meritocracy. It applies an economic logic and market metrics to nearly every aspect of human life, politics, education, jurisprudence, and social networking, among other realms of human activity (Brown 2015). This economic logic applied to the realm of government has resulted in the dismantling of the welfare state and the fortification of the institutions of social control amidst heightened racial inequality and class polarization.

The neoliberal restructuring of the state could not be understood in isolation from important changes in the culture of civil society that I conceive of as the authoritarian turn. I use this term to refer to the cultural and ideological inclination toward adopting authoritarian solutions to deal with a range of social problems in the United States, including crime control and discipline in public schools, labor, academia and, of course, migration. Multilayered, symbiotic and too complex to be identified with a facile start date marked by the adoption of one law or policy, this authoritarian turn is a cultural and ideological phenomenon that emerged gradually and concomitantly with neoliberalism and the racially



charged backlash against the civil rights movement in the early 1980s. Although there have always been elements of racially authoritarian practices in the United States, the authoritarian turn is unique because it came about after the civil rights movement, at a time when the United States had legally disavowed racial violence. Yet despite claims about living in a post-racial order, the authoritarian turn is most evident in the growing clamor for violence against Black and Latino dissenters and a heightened sense of intolerance for the rights of minorities, refugees, women and the LGBT community in nearly every realm of civic life and culture. This authoritarian tendency prepares civil society for the rise of politicians such as Donald Trump, and it empowers his supporters to spit on Latino migrant activists, to assault Black Lives Matter activists, and to make popular legislation that allows for civilians to carry concealed weapons – even on college campuses – in states such as Texas and elsewhere.

The authoritarian turn sets the cultural and ideological terrain in civil society for the dialectical configuration of the modern capitalist state similar to what the Greek political theorist Poulantzas (1978) described as authoritarian statism. Authoritarian statism refers to a situation in which the advanced democracies maintain the formalities of a constitutional democracy but curtail civil liberties as they increase the repressive power of their police, carceral and juridical institutions. In this scenario, the state's repressive and economic institutions are insulated from meaningful democratic controls. Under such a configured state, the ability to negotiate trade agreements or establish fiscal policy may be insulated from Congress or certain constitutional rights may be suspended under emergency powers. Another characteristic of authoritarian statism is that the state takes steps to demobilize social movements through a continuum of tactics ranging from consensual forms of domination to outright domination without consent. Poulantzas theorized that states adopt this configuration to manage the contradictions produced by what we now call neoliberalism. Authoritarian statism continues to deepen in profound ways that not even Poulantzas could have fathomed before his tragic death in 1979.

Although the authoritarian turn in the cultural and ideological terrain of civil society and its dialectical counterpart in the realm of governance are dominant trends, they are uneven and contradictory. The authoritarian impulse is not as strong in all parts of the country in a uniform way. Just as some states and regions have been more repressive toward immigrants such as Arizona and Texas, there have been important state and local efforts at immigration integration in California and Illinois and in cities like San Francisco, Los Angeles, New York and others. The authoritarian turn, and the state policies that it helps to sustain, is contradictory because though the general trend in policy is to adopt more draconian migration control policies, there are institutional spaces within the state that seek to integrate immigrants, such as Deferred Action for Parental Accountability (DAPA). This is a program that could have potentially granted temporary relief from deportation to as many as four million undocumented

adults who have been in the United States since 1 January 2010, and who have a US citizen or Legal Permanent Resident child and have met other requirements.

Despite its unevenness and contradictions, the authoritarian turn is the dominant ideological current in the United States to be sure. Efforts to create democratic spaces are constantly under attack by anti-migrant forces and their allies. The authoritarian turn and the efforts to counter it, or at least aspects of it, are the product of real and dynamic struggles between racialized class forces with different conceptions of the world. Thus, it is possible for migrant activists to open up democratic spaces but these are always liminal victories. This is evidenced by the injunction placed on DAPA in April of 2015 by Andrew S. Hanen, a federal judge in Brownsville, Texas, after twenty-six states filed a lawsuit against the president's program. But there are many examples of democratic openings being shut down, such as Texas Governor Greg Abbott refusing to provide access to certain state funds to counties that refuse to cooperate with ICE, or the federal government curtailing the length of time it will hold families in migrant detention only to place ankle bracelets on them upon release. Victories, if not carefully thought out and defended, are easily turned into defeats under the authoritarian turn and statism.

Drawing on the dialectical relationship between the authoritarian turn in civil society and authoritarian statism, I make my argument first by elaborating on the development of neoliberalism as a dominant ideology primarily in the United States (and to a lesser extent in Chile in the 1970s), then by discussing neoliberalism's inherent authoritarian tendencies. I follow this section with a detailed discussion of the homeland security state and its development through major immigration policies starting in 1986 up to President Obama's announcement of DAPA. Finally, I conclude by discussing the role of the migrant movement and its allies in the United States as a democratizing force.

Thinking of migration control in the context of the authoritarian turn complements and enriches the critical scholarship on this topic. Most of the early literature on migration control was focused on border enforcement, and later scholars began to write about immigration propositions, and state and local enforcement. They undertook this using traditional disciplinary lenses, and few attempted to critically theorize the nature of the contemporary migration control regime as a state project. Scholars working at the intersection of Latinos studies and traditional disciplines such as anthropology, sociology and political science, however, have come to understand the politics of migration control as corresponding to a new logic of governance. There are a handful of scholars working from such a critical approach, such as De Genova (2004), Dowling and Inda (2013), Rosas (2012), Rodriguez (2014), Golash-Boza (2012); Arnold (2011) and others. Both building upon and departing from this literature, I adopt an explicitly neo-Gramscian/Poulantzian approach. This approach to migration control conceptualizes it as being part of the modern capitalist state, with deep cultural and ideological underpinnings in civil society, which has undergone a



very specific configuration by a complex and contradictory bloc of actors to deal with the conflicts brought about by neoliberalism. One of the conceptual contributions to be made to the critical literature on migration control by this approach is that it allows us to understand how the battle of ideas and the cultural-ideological terrain play a major part in structuring state policy. Moreover, this approach allows for an analysis that could account for the centrality of social movements to carve out democratic spaces within the state and for the saliency of cultural and ideological production that could counter the authoritarian turn.

The Authoritarian and Neoliberal Roots of the Homeland Security State

Neoliberalism has been the dominant ideology of the United States for the last thirty-five years. Although there are many neoliberal thinkers, the ideology's most influential representative was Milton Friedman, a professor of economics at the University of Chicago. Friedman's (1962) seminal book *Capitalism and Freedom* was to the dominant fractions of capital what Acuña's (1972) *Occupied America* was to Chicano activists of the 1970s: a key text by an intellectual organically linked to his or her fundamental social group. Friedman gave his social group self-awareness, an ideology and a philosophy that in this case justified a new round of capital accumulation – later known as neoliberal globalization – that would change the world.

Friedman argued against state intervention in the economy and held that those who seek to use the state to “do good” ultimately do more harm. The market, he argued, is the road to freedom, whereas collective forms of social and economic organization are its antithesis. Greed and competitive individualism should therefore be encouraged. Applied to the realm of government policy, neoliberalism dictates that the market should reign supreme and the state's role should be reduced to facilitating the growth of capitalism instead of providing a social safety net or organizing society toward any lofty goal such as equality, social justice, or protecting the environment. By the 1980s, neoliberalism had become the dominant theoretical framework guiding government and economic policy in the United States and Britain. Friedman played a direct role in this, serving as an adviser to both Ronald Reagan and Margaret Thatcher.

Friedman was writing at a time when the US economy was guided by policies based on the ideas of British economist John Maynard Keynes, whose work dominated academic and policy circles in the aftermath of World War II through the 1970s. The US government heavily subsidized large sectors of the economy, and the state played a major role in development through urban-renewal programs, agricultural subsidies, military spending, and investments in research

and development. The government also maintained a welfare state that was robust in comparison with what it is today. Billions of dollars were poured into the economy in the middle of the Cold War. Friedman argued that such Keynesian policies stifled freedom, which according to neoliberal thinkers, is not measured by access to social justice and the protections of rights but by the pursuit of private ends. Indeed, Friedman and his contemporaries, such as Friedrich A. Hayek, argued that only capitalism could bring about the cornucopia of market choices needed for a free society to flourish. Neoliberal economics were first tested in Chile under the military dictatorship of General Pinochet.

Recent scholarship has sought to distance Hayek and to a lesser extent Friedman from the Pinochet regime (Caldwell and Montes 2015). While it is debatable how much Friedman actually endorsed the Pinochet regime's violent tactics, there is no denying that Friedman and his colleagues at the University of Chicago provided the ideological groundwork for advancing neoliberalism in Chile.

As Friedman noted in his memoir, by the time of Pinochet's coup in 1973, his Chicago University colleagues had assembled diagnoses and proposals known as *El Ladrillo*, or the Brick, which they gave to the generals. The document laid out Chile's transition from a Keynesian economy to a full-fledged neoliberal one and would serve as the guiding paradigm of the regime's economic policy. "In 1975," Friedman and Friedman (1999) wrote, "when inflation still raged and a world recession triggered a depression in Chile, General Pinochet turned to the 'Chicago Boys'... and appointed several of them to powerful positions in the government" (398). Scholars have long known about the links between Friedman, the Chicago Boys and the Pinochet dictatorship.

While it is easy to point to the authoritarian practices that were used to usher in neoliberalism in South and Central America, scholars rarely point to the authoritarian practices used in the United States. Yet the rise of neoliberalism in the United States has a similar, albeit less violent, history. Indeed it is one intimately connected to the backlash against the civil rights movement and the rise of neoconservatism.

Perhaps no other political scientist had more of a hand in advancing the authoritarian turn that emerged with neoliberalism than Samuel Huntington. I do not refer to Huntington's (2004) infamous, well-critiqued essay "The Hispanic Challenge" per se. "The Hispanic Challenge" is part of a broader theme about the declining authority in the West that runs through Huntington's long and distinguished career. We must look instead at Huntington's writings from the mid-1970s. He was one of three of the world's leading conservative political scientists who were commissioned to write a study for the Trilateral Commission on Democracy and Governability in the United States, Japan and Western Europe.

The study, titled *The Crisis of Democracy*, was written in the aftermath of the watershed year of 1968, when youth, students and racial minorities had risen up against governments in both the United States and Europe to denounce war and social inequality and to demand full inclusion. The Trilateral Commission is an



organization comprised of leaders from strategic fractions of global capital and of leading intellectuals that came together in 1973 to study the challenges facing capitalism in the United States, Western Europe and Japan, which continues to meet and has since expanded membership to select members in the developing world.

In the introduction of *The Crisis of Democracy*, the authors lament the rise of “oppositional intellectuals” and “youth” who seek to challenge the authority of governments in the West and make the case for reestablishing authority in order to save democracy. In the chapter on the United States, written exclusively by Huntington, he argues that the crisis in question is one of *too much* democracy. Huntington (1975) was concerned with the rise of “marches, demonstrations, protest movements and cause organizations” (61). Particularly troubling to Huntington were the demands being made on the welfare state by these groups. All this was a product of a “democratic surge” that had engulfed the United States in the 1960s and 1970s (62). Huntington was keen to the reality that there were “markedly higher levels of self-consciousness among Blacks, Indians, Chicanos, white ethnic groups, students and women” and of “unionism” (61). Huntington also laments that the 1960s brought “the reassertion of the primacy of the goal of equality in social and political life” (62).

The consequence of social movements, Huntington argued, was a crisis of authority of the welfare state. He noted that as minorities, women and other groups sought to democratize the United States, authority declined. In the report, Huntington recommends the use of deceit, repression and espionage to deal with such movements. Moreover, Huntington justifies racial domination and the exclusion of minorities from full membership in society – arguing that all great societies have historically had an excluded segment – and advocates cutting government services and social programs. In other parts of the report, the authors argue that the only way to overcome the crisis of democracy and the underlying crisis of profits at the time is to expand markets abroad.

It is uncommon to think of Huntington and Friedman in the same vein. The former thinker represents a neoconservative type of political rationality that seeks to conserve a static vision of national identity and the latter represents a neoliberal rationality that seeks to transform all that is public into the market sphere. Nonetheless their type of political rationality laid the foundation for a particular brand of authoritarian neoliberalism in the United States. This brand of neoliberalism had to garner support among factions of the Right, including social conservatives who resented the gains made by minorities and women, and among fractions of capital that primarily cared about expanding markets.

In a case of what may appear to be strange bedfellows, Huntington’s ideas found a powerful audience among the most powerful multinational corporations, which sought to save “democracy” from the masses of historically excluded groups by adopting authoritarian policies and opening up world markets. The ideas of Friedman and Huntington had more impact on the long-term development of capitalism and racial politics in the United States than the physical violence

of police and state agents during the 1970s. Together, their ideas became a material force in the form of authoritarian governance and in free markets. As Marx (1978) wrote, “The ideas of the ruling class are in every epoch the ruling ideas, i.e. the class which is the ruling material force of society, is at the same time its ruling intellectual force” (172). The Trilateral report, financed by the leading corporate powers at the time, was a precursor to globalization and should be seen as a response to the uprisings of its time and as a turning point in world history toward a more conservative and authoritarian set of political arrangements alongside the diffusion of neoliberal ideas in the United States and the world.

Both Friedman and Huntington became advisers to the Reagan administration, and Friedman and his students became advisers to many governments including those in Chile and in the United Kingdom. Beyond their actual direct advising, however, they made their mark on history through their writings and students, who have advanced the dominant ideological strands that continue to deepen the authoritarian turn. Nonetheless we see that free market capitalism did not deepen democracy or lead to greater freedom as neoliberal policy advocates promised. On the contrary, the rise of neoliberalism as a dominant ideology in the late 1970s and early 1980s led to the development of a set of economic policies that launched millions of people into the transnational migrant stream and justified a new round of state-sponsored violence to regulate the flow of migrants. The adoption of neoliberal policies in Latin America was more or less concomitant with the adoption of neoliberalism in the United States and the emergence of the modern migration control regime, starting in the mid-1980s.

The influential theorist Brown (2006) noted “neoliberalism figures a future in which cultural and national borders are largely erased, in which all relations, attachments and endeavors are submitted to a monetary nexus, while neoconservatism scrambles to re-articulate and police cultural and national borders, the sacred, and the singular through discourses of patriotism, religiosity, and the West” (699). Indeed revisiting the early intellectual history of neoliberalism in the United States allows us to make sense of the madness in calls for expanding neoliberal policies through mega free trade agreements and calls for keeping the United States an Anglo Saxon, English-speaking country based on Protestant values – like the one that Huntington (2004) made in his infamous essay “The Hispanic Challenge.” Rather than being two completely different projects, neoliberalism and neoconservatism are at the foundation of the authoritarian turn and the rise of the homeland security state in American politics today.

The Homeland Security State: Nature and Evolution

It is out of the process of neoliberal restructuring of the global capitalist economy that we get the rise of the homeland security state. I have been using this concept



in a narrow sense thus far. However, it is a complex concept to describe a set of relationships that could not be limited to the Department of Homeland Security (DHS) and its agencies. Rather the homeland security state, which includes the DHS and its agencies to be sure, is a relationship of institutions and social forces that has emerged to govern society during the height of neoliberalism. Including the state in the narrow sense, that is those formal institutions of governance, the homeland security state is also deeply rooted in civil society, the sphere of private associations located outside of the formal apparatus of government.

I develop my understanding and deployment of the homeland security state from Gramsci's (2000) notion of the integral state – a constellation of forces that “contains both the apparatuses of government and the judiciary and the various voluntary and private associations and para-political institutions which make up civil society” (429). I conceive of the homeland security state as a dynamic integral state, a relationship of institutions located with the state's repressive apparatus, governing institutions and social forces that have emerged to manage migration in the era of neoliberalism. This understanding of the homeland security state allows us to account for those social forces or para-political institutions such as political parties, think tanks, policy organizations, lobbyists, intellectuals, private corporations, and television and news programs that struggle to expand the reach of the modern migration control apparatus of the state in the narrow sense of the word. It is within civil society that groups with competing class interests struggle to configure the modern nation state to meet their interests.

Beyond its guns, badges, institutional and juridical authority, and technologies of governance there is an intellectual power that the homeland security state must draw upon for its existence. The homeland security state is not just a product of pure repression. It thrives on the consent and active support of people within both the state apparatus and civil society who vigorously lobby to expand the homeland security. For example, in the summer of 2015 in Texas, Immigration and Customs Enforcement (ICE) agents drew on their limited academic knowledge about Central America and migration patterns to argue that allowing detained asylum seekers out on bail would create a mass wave of migration. Judges then used this argument to uniformly deny bail to thousands of Central American refugees, which in turn justified the expansion of detention facilities capable of holding them en masse. The homeland security state could never have expanded, reaching out its tentacles in the form of police programs, courts and detention centers, without the production of knowledge. Sociologist Rodriguez (2014) has noted, “US enforcement agencies do not operate as objective, regulatory bodies, but as social actors that can, and do, promote negative portrayals of target populations for public consumption” (63). The production and diffusion of negative perceptions play a central role in the maintenance of popular consent for the existence and reproduction of the homeland security state.

The production of racist discourse, even if in the language of colorblind racism, about Latinos and other racial minorities does not solely emerge from

intellectuals directly or indirectly aligned with the state project of policing. The authoritarian cultural and ideological tendencies to repress dissent and police racial and social minorities emerged with the rise of neoliberalism and they are an integral part of the homeland security state in a deeply dialectical way. Indeed it is at the nexus between the state and the cultural-ideological tendencies in civil society where the separation of authoritarian statism and the authoritarian turn in civil society becomes merely a methodological problem. The homeland security state could not exist without the authoritarian turn in civil society and the authoritarian tendencies in civil society could not exist without the state.

This neo-Gramscian conceptualization of the homeland security state helps us theorize the politics of contemporary migration control in two ways that are extremely useful: (i) as a relationship of both formal state institutions and cultural and ideological processes in civil society and (ii) as a particular configuration of the US capitalist state, which has been restructured to deal with contradictions brought about by the neoliberal project. It is, in other words, a historically specific configuration of the capitalist state that features a highly developed repressive apparatus that is insulated from democratic control and accountability in the face of popular movements that wish to mitigate its abuses. I want to emphasize this conceptualization of the homeland security state without losing sight of its technologies of governance, or its racial or gendered dynamics, which are both foundational elements of contemporary state policing to be sure. This will allow us to theorize how the homeland security state reproduces itself in Congress, local government, state legislatures, courts, detention facilities, and pop culture, and how specific actors mobilize cultural, ideological and material resources for its expansion.

The homeland security state cannot be reduced to the passage of one bill in Congress, executive act, or budgetary allocation. Rather it is the amalgamation of multiple state policies as well as cultural and ideological shifts that came about with the authoritarian turn. It is multifaceted, dispersed and contradictory. It would require an extensive book to describe the many layers that have informed its expansion. Notwithstanding this point, I do think that there are a series of legislative and executive acts that laid an important foundation for it.

As the United States and Latin American countries adopted neoliberal reforms, the US government began to restructure its migration-control apparatus to regulate the flow of millions of migrants who were displaced by neoliberalism. There is no exact date of its emergence. It arose piecemeal, the culmination of numerous acts of Congress and the Executive, including the 1986 Immigration Reform and Control Act and the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, along with other federal and state laws and executive policies. Nonetheless, it could be argued that the homeland security state was symbolically consolidated in the aftermath of 9/11 through the Patriot Act and the formation of the DHS in 2003.

One of the major components of legislation that went into forging the homeland security state was the 1986 Immigration Reform and Control Act (IRCA).



This claim might be seen as counterintuitive to some who think IRCA was a relatively progressive piece of legislation. But in classic Gramscian theory, dominant forces exercise their hegemony, not by sheer domination, but by leadership, that is by taking into account the interests of the subaltern classes. So on the one hand, IRCA created gains for immigrants and it also laid the groundwork for many of the key components of the homeland security state. Its “clearest achievement was the legalization of some 3 million immigrants, the bulk of them of Mexican origin” (Zolberg 2006, 370). IRCA is often celebrated by progressives and denounced by conservatives because of its amnesty provisions. Nativist groups of the day, such as the Federation for American Immigration Reform, resisted these provisions, while Latino migrant activists and their allies launched a social movement to keep them in the bill and ultimately prevailed. IRCA was not, however, as progressive as some have claimed. Immigration scholar and political theorist Arnold (2011) notes that the IRCA’s “amnesty legalized some residents’ status individually, but it also facilitated more rapid deportation of other foreigners,” and that such laws “created a discursive subject – the illegal alien – that has become quite threatening” (36–37). Arnold is correct: with the rise of the discourse about “illegal aliens,” IRCA also implemented a system of employer sanctions and built up the Border Patrol. Notwithstanding its amnesty provisions, IRCA was part of a series of policies affecting Latinos in the 1980s that can be seen as part of the authoritarian turn. This was especially the case with Reagan’s war on drugs, which criminalized Mexicans as drug traffickers and led to increased incarceration rates. This is all part of the contradictory nature of the authoritarian turn and statism.

Nearly a decade after IRCA, Congress passed the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA), the Anti-terrorism and Effective Death Penalty Act, and the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA). Both laws passed by Congress in 1996 emphasized “responsibility” – a hallmark of neoliberalism – in their title, thus reflecting neoliberalism’s moral and intellectual leadership at the time, as well as the ideology of post – civil rights racism. Debates over the laws emphasized “personal responsibility,” which was a dominant discourse in the 1990s suggesting that Blacks and Latinos are a drain on the economy and on responsible White taxpayers. As Hancock (2004) has shown, the debate over PRWORA focused on Black women and promoted hideous historical stereotypes of them as promiscuous, lazy, irresponsible – in short, welfare cheats. Although PRWORA focused discursively on Blacks and the Effective Death Penalty Act and IIRIRA on Latinos, the laws had more in common than is generally known. PRWORA, for example, had provisions that would deny undocumented people access to most federal programs such as food stamps and public assistance. Both were part of the neoliberal restructuring of the 1990s.

No bill or executive decree before it did more to facilitate the symbiosis between the criminal justice system and the migration-control system than IIRIRA.

The bill created a series of aggravated felonies that, although not normally felonies in many cases, would be considered so for immigration purposes. Under this law anyone with Legal Permanent Resident status or a green card found to have committed one of these immigration felonies would be deportable. Perhaps most critically, the bill made these provisions around aggravated felonies retroactive. In other words, even though the bill was passed in 1996, if a person was found to have committed a deportable offense in 1967, they could be deported. IIRIRA also took away immigration judges' discretion to waive deportation in cases where repatriation would have a serious hardship on US citizen children; it made the requirements for filing for asylum in the United States more stringent; and it empowered local police agencies to enforce immigration law under section 287 of the bill. Although this provision was not vigorously enforced until after 9/11, it was a major building block of the contemporary homeland security state.

The 1986 and 1996 immigration laws marked the trend toward an ever more repressive migration-control system and its symbiosis with a draconian criminal justice system. But the post-9/11 security climate facilitated the convergence of a series of factors that allowed anti-migrant think tanks and politicians to accelerate the trends of the 1980s and 1990s, this time under the rationale of the war on terror. Indeed the politics of anti-terrorism led to the signing of the Patriot Act in 2001 and the formation of the DHS in 2003. The DHS is today the country's largest federal law enforcement agency, receiving more funds than all other federal law enforcement agencies combined. The creation of the DHS included the creation of ICE, a mobile federal law enforcement agency with the power to enforce US immigration laws. As the acronym ICE suggests, it enforces the laws more coldly than its predecessors in the US Customs Service and the Immigration and Naturalization Service.

After the establishment of DHS and ICE, the homeland security state continued to expand. During the 109th Congress, politicians, with the support of anti-immigrant civil society-based organizations, passed a series of immigration reform bills. The House passed the Real ID Act on 11 May 2005, and in October 2006, it passed the Secure Fence Act. Both bills, which were eventually signed by the president and became law expanded the power of the state to police immigrants in unique ways. Among other things, the Real ID Act changed visa laws for temporary workers, introduced national regulations for state-issued identification to prevent states from giving undocumented people driver's licenses, and waived potential barriers to building the border wall among other provisions. The Secure Fence Act sought to build an additional 700 miles of fencing at the US-Mexico border and to increase the amount of money and number of agents dedicated to border enforcement. The bill also expanded the use of advanced technology, such as satellites and aerial drones, at the border.

Perhaps the single most draconian bill to be considered in Congress was the Border Protection, Antiterrorism, and Illegal Immigration Control Act (HR 4437), passed by the House of Representatives in December 2005. The bill,



widely known as the Sensenbrenner bill after the Republican congressman from Wisconsin who introduced it, sought to do the following: make being undocumented a felony; expand border-security measures; increase cooperation between federal and local police agencies on immigration-law enforcement; broaden the definition of aggravated felony to include certain crimes that would be considered misdemeanor charges in criminal law; and expand the definition of human trafficking to include anyone who transports an undocumented person in an automobile.

The bill died in the Senate after Latino migrant activists and the broader migrant rights movement launched a series of mobilizations that challenged it. Although its most draconian provisions that would have made being undocumented a felony, among a few others, did not make it into any serious legislation that followed, many of its provisions have since been implemented through other legislation or through the executive office. For instance HR 4437's proposals to expand the border wall and to establish a police program known as Secure Communities that allows local police to identify and deport undocumented people, and E-Verify, the employment verification system, were implemented through the Executive office and funded in congressional appropriations bills. Indeed many of the so-called common sense enforcement provisions found in HR 4437 were included in what immigration reformers proclaimed were progressive immigration bills, including Senate Bill 744, the Border Security, Economic Opportunity, and Immigration Modernization act, which was passed in the Senate but died in a House committee during the summer of 2013.

Precarious Legality and the Dialectics of the Authoritarian Turn

I have provided an analysis of the authoritarian roots of neoliberalism and of the homeland security state. Through a discussion of the theoretical and intellectual work of disparate scholars Milton Friedman and Samuel Huntington I have shown how neoliberalism has been accompanied by authoritarian politics in the United States. Rather than explaining away these tensions, I illustrated how these contradictory ideologies allowed for the development of a dominant bloc that was comprised of advocates of free market capitalism and neoconservatives that would play a vital role in the authoritarian turn that symbolically began with the election of Ronald Reagan. I also described how the theoretical insights of Antonio Gramsci allow us to conceive of the homeland security state as a dynamic and integral state with multiple sites of power that could not be separated from the neoliberal and neoconservative underpinnings of US society. Indeed, I described how the authoritarian turn gave rise to the configuration of the modern migration control apparatus as a less accountable and undemocratic

set of relationships. I also discussed some of the major layers of legislation and policy that helped to bring this configuration of the capitalist state to bear on the conjuncture at hand.

In the Gramscian tradition the study of conjunctures is important because “it is upon this terrain that the forces of opposition organize” (Gramsci 2000, 201). Indeed the development and continued expansion of the homeland security state has real implications for the strategies used by the Latino migrant movement and other social movements. The migrant movement remains the largest, most dynamic and sustained social movement in early twenty-first-century US society. It has not been able to meet its overarching goal, which for many sectors of the movement is so-called comprehensive immigration reform. Nonetheless the movement, which at first problematically appeared to outsiders as a homogeneous and generic movement of “undocumented Mexicans,” has evolved. The reality is far more complex than what most casual, and some academic, observers imagine. The struggle for the rights of migrants is global, multinational and multisectoral with dynamic bases ranging from indigenous migrants, Black migrants, South Asian and Asian organizations, undocuqueer activists, day laborers, undocumented youth – some of which refuse to call themselves DREAMers – and most recently a new sector of Mexican and Central American refugees.

A significant portion of migrant activists and their allies are fighting to democratize state-civil society relations in the face of the authoritarian turn. By democratization I am referring to pulling back the tentacles of the homeland security state and forging institutional and social spaces in its place where undocumented migrants could be integrated into society on their own terms and without coercion. I am also referring to a new understanding of membership in society that is based on a different notion of rights, one that is not confined to the nation-state, and to a new politics of membership based on ideas around reciprocity, solidarity and multiplicity. Some examples of these democratic openings could be found in states such as California and Illinois, for instance, where the Latino migrant movement and its allies have won driver’s licenses for undocumented migrants. Moreover, several university systems have granted in-state tuition to the undocumented, and most recently New York City has joined San Francisco and New Haven in extending municipal IDs to this sector of the population (de Graauw 2014). Such policies are small victories in a Gramscian war of position by grassroots activists.

Withstanding these important victories, the authoritarian turn and statism may still be perceived as an omnipresent and omnipotent phenomenon that presents a sort of crisis for migrant activists and for Left social movements more broadly. While certainly presenting a set of challenges, it also presents opportunities. Bruff (2012), a critical sociologist using key aspects of Poulantzas’s framework, argues that “authoritarian neoliberalism is simultaneously strengthening and weakening the state as the latter reconfigures into a less open and therefore more fragile polity” (114). Along similar lines, I want to point to the dialectical



strengthening-weakening of the state and also make clear that authoritarian statism has created opportunities just as it has created challenges. For instance, the expanding police power of the homeland security state is a product of authoritarian statism in which a strong executive office has emerged over the last thirty years. Executive power has been used to provide discretionary funds for migration control, and for surveillance programs that are outside of the normative framework of a liberal constitutional democracy. This is also an opportunity for the migrant movement and its organizations, such as the National Day Laborer Organizing Network and others, to pressure the executive to use its power to stop deportations, which resulted in Deferred Action for Childhood Arrivals and Deferred Action for Parental Accountability (DAPA), before a federal judge in Texas put an injunction against the program. There is the dialectical strengthening-weakening of the state as there is also the dialectic of victories-losses facing the migrant movement.

While such policies, before the injunction, could have brought about relief from deportation for some sectors of the undocumented population, they have come at a cost. To win over moderate elected officials, a sector of the migrant movement that I have described elsewhere as immigration reformers has adopted a discourse that does not challenge the fundamentally anti-democratic and repressive nature of authoritarian police projects such as Secure Communities (Gonzales 2014). Immigration reformers have relied on arguments about public safety, about undocumented students being Americans in every way except legally and so on. Such an accommodationist discourse may be necessary for winning votes in certain instances to roll back a coercive policy in specific circumstances. Modest victories, however, come at a price and represent both small victories and defeat for the oppositional sectors of the migrant movement that seek more far reaching transformation and justice. They also represent defeat for they reinforce the rationale for having the homeland security state in the first place and obfuscate the structural forces displacing people on a global scale. Most critically the accommodationist discourse of immigration reformers does not challenge the authoritarian and anti-democratic nature of the homeland security state. This leaves immigration reformers struggling for moderate reforms that under the best of circumstances win a precarious legality for undocumented migrants. It is often a legality so precarious that, as in the case of DAPA, a federal judge was able to stop it even after hundreds of thousands of people had come forward to qualify for such a status. But this precarious situation is also a testament to the organizational and political weakness of oppositional migrant activists who could not muster the strength to make their vision of the world a reality.

Precarious legality is a new type of political subjectivity brought about by a game of perpetual compromise by the immigration reformers and state forces in the context of the authoritarian turn. I develop this term based on the work of anthropologist Mole (2010), who writes about *precarizzazione* (precarious-ization) or precarious subjects, to refer to a new generation of workers in Italy who are

subject to precarious working conditions characterized by subcontracted work and anxiety over the future. There is nothing inherently Italian about this condition. We have precarious workers in the United States to be sure, but we now see the emergence of a precarious legality for which migrant workers are having to settle. It is a precarious, liminal form of legality that as many as seven million undocumented migrants will find themselves in under DACA and DAPA – even if the injunction is lifted. Although better than being undocumented in most cases, the status such programs offer is the thinnest form of protection from deportation and detention. Precarious legality comes with a constant psychological state of anxiety over the possibility of securing a stable status that is constantly in danger of being revoked.

This type of precarious legality leads to the forging of a neoliberal subject, who is both a stable and rightless worker preferred by neoliberals like Friedman. For instance in a lecture on immigration, Friedman (2009) asked the audience to consider the following: “Mexicans immigrating over the border is a good thing! It is a good thing for the illegal immigrants, it is a good thing for the United States, it is a good thing for the citizens of the country. But it is only good so long as it’s illegal! That is an interesting paradox to think about: make it legal and it’s no good. Why? Because as long as it’s illegal, the people who come in do not qualify for welfare, they don’t qualify for Social Security.”

As soon as it becomes legal, according to Friedman, it becomes a public charge on society. Friedman’s logic is one that prefers access to a highly exploitable and dependable labor force but wishes to see such a labor force in a state of perpetual rightlessness. Precarious legality is not the exact same thing as illegality; it does provide a temporary layer of protection from immediate deportation in most cases. However, we must not lose sight that it is the product of the compromise between the logics of neoliberalism’s desire for exploitable labor, neoconservatism’s yearning to conserve the privileges of whiteness, and immigration reformers’ demands for “legalization.”

It would be a mistake to think of the authoritarian turn and of the capitalist state, for that matter, as being one of complete domination without consent and resistance among popular sectors. On the contrary, the capitalist state emerged through a series of compromises, and the working classes and socially excluded populations have made real gains through movements to create change. In fact, DACA and DAPA, as precarious and liminal as they may be, represent compromises brought about by the power of the migrant movement and its allies within the context of a highly divided and dysfunctional US Congress. A shift in the balance of forces in Congress must take place to pass “immigration reform,” but it would be naive to think that by simply changing Congress the balance of forces between the parties would be enough to surmount precarious legality. Poulantzas (1978) was clear that “action of the popular masses within the state is a necessary condition of its transformation, but is not itself a sufficient condition” (143). Indeed, without an autonomous pole of leadership, political direction, and power from below, the migrant movement does not have a fighting chance to go



beyond precarious legality. Autonomous political action is necessary to create the shift in the cultural and ideological terrain that made the authoritarian turn and authoritarian statism possible. Having the capacity to shift to the debate from the bottom up will require a new conception of the world and a new strategy for organizing that takes into the account the dialectical strengthening-weakening of state power and social movements.

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